



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,911	10/12/2001	Harold Ferdinand Van Garderen	0142-0362P	8931

2292 7590 09/30/2005

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

TANG, KENNETH

ART UNIT	PAPER NUMBER
----------	--------------

2195

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/974,911

Applicant(s)

VAN GARDEREN ET AL.

Examiner

Kenneth Tang

Art Unit

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the Amendment filed on 7/14/05. Applicant's arguments have been fully considered but are not found to be persuasive.
2. Claims 1-4 are presented for examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Popat et al. (hereinafter Popat) (US 6,678,415 B1) in view of Gell et al. (hereinafter Gell) (US 5,802,502).**

4. As to claim 1, Popat teaches a distributed document handling system for carrying out jobs, where jobs are carried out by services distributed over a network and where a job leads to a product (*see Abstract*), the system comprising:

determining means for determining a path (best path search operation) of services, wherein the path is suitable to carry out the job in accordance with the product specifications (the parameters in the dynamic programming operation), and wherein the determining means is operable to take into account circumstantial constraints (constraint and upper bound score) for that job (*col. 6, lines 44-67, col. 5, lines 61-67*).

Art Unit: 2195

5. Gell teaches the deficient limitation of a network of interconnected processing document input and output devices (specifying by a user with a graphical user interface) such as a scanner and a printer, etc. a plurality of services (selection of a pool of services) (*col. 2, lines 37-41 and col. 13, lines 64-67 through col. 14, lines 1-4*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of a network of interconnected processing document input and output devices (specifying by a user with a graphical user interface) such as a scanner and a printer, etc. a plurality of services to the existing network document handling system because this would allow to perform services from one of the interconnected devices with the most optimal path to the devices (*col. 2, lines 37-41*).

6. **Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Popat et al. (hereinafter Popat) (US 6,678,415 B1) in view of Gell et al. (hereinafter Gell) (US 5,802,502), and further in view of Otsuka et al. (hereinafter Otsuka) (US 6,700,674 B1).**

7. As to claims 2-3, Popat teaches a user interface and optimizing paths based on constraints. However, Popat and Gell fail to explicitly teach that the paths are ranked. However, Otsuka teaches document image communication processing, wherein the communication routes (paths) are based on prioritization (ranking) (*see Abstract*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of ranking the paths to the existing interconnected device communication path system of Popat and Gell because this would allow the most important (highest priority or most urgent) route to be executed first (*see Abstract*).

8. As to claim 4, Popat teaches wherein the circumstantial constraint is a total price of the job to be carried out (weights); and the system also comprises means for calculating the total price from price attributes of services included in a determined path (best path from probabilities and weights) (*col. 6, lines 44-67*).

Response to Arguments

9. During patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

10. *Applicant argues on page 8 of the Remarks that Popat does not teach “specifying means for entering...specifications specifying circumstantial constraints without effect on the product” and claims that Popat teaches away from this by pointing to col. 6, lines 63-67 and col. 7, lines 1-3.*

In response, the Examiner respectfully disagrees. The Applicant points to a section of Popat that does not relate to the claims because the claim relates to constraints only related to specifying means for entering by a user a job specification. The cited portion by the Applicant has nothing to do with the job specification.

11. *Applicant argues on page 8 of the Remarks that the upper bound score of each node is provided by the language model and therefore is not entered by the user as recited in claim 1.*

In response, what is entered by the user is a job specification and that is what is recited in claim 1 (specifying by a user with a graphical user interface such as a scanner and a printer, etc. a plurality of services (selection of a pool of services) (*col. 2, lines 37-41 and col. 13, lines 64-67 through col. 14, lines 1-4*)).

12. *Applicant argues on page 9 of the Remarks that Popat is non-analogous art to Gell.*

In response, the Examiner respectfully disagrees. Both Popat and Gell share the same field of endeavor of optimizing paths.

13. *Applicant argues on page 9 of the Remarks that Gell fails to teach “specifying means for entering by a user a job specification comprising product specifications specifying the product to be delivered by the job and specifications specifying circumstantial constraints without effect on the product” because the price data of Gell is obtained from the service providers, not from the entry of the user.*

Gell teaches a network of interconnected processing document input and output devices (specifying by a user with a graphical user interface) such as a scanner and a printer, etc. a plurality of services (selection of a pool of services) (*col. 2, lines 37-41 and col. 13, lines 64-67 through col. 14, lines 1-4*). Popat teaches determining means for determining a path (best path search operation) of services, wherein the path is suitable to carry out the job in accordance with the product specifications (the parameters in the dynamic programming operation), and wherein the determining means is operable to take into account circumstantial constraints (constraint and upper bound score) for that job (*col. 6, lines 44-67, col. 5, lines 61-67*). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2195

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kt
9/24/05


MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER